AMENDMENTS TO THE DRAWINGS:

None

REMARKS/ARGUMENTS

Claims 1-37 have been objected to under 37 C.F.R. 1.75(f) because the claims are not numbered consecutively in Arabic numerals. It is respectfully noted that the numbering of the claims as they appear in the present application is a direct result of electronically filing the subject application with the USPTO. It is the USPTO software utilized at the time of the filing of this application which resulted in the numbering of the claims as they appear in the present application. In fact, all applications electronically filed will have the claims numbered as they appear in the present application, namely, [c1], [c2], etc. Applicant has amended the claims in the present amendment by asserting the appropriate Arabic number followed by a period at the beginning of each claim, however, the original numbering of the claims was not Applicant's doing. The USPTO software for electronic filing should be corrected to obviate future claim objections with respect to numbering.

Claims 1, 2 and 6 stand rejected under 35 U.S.C. 102(b) as being anticipated by Byrns. Applicant has canceled claims 1-11. This rejection is therefore moot.

Claims 12-14, 16, 19, 20, 22-25, 29, 30 and 32 stand rejected under 35 U.S.C. 102(b) as being anticipated by Buttery. In response to this rejection, Applicant has specifically amended independent claims 12, 22, 29 and 30 to further distinguish the present invention over the cited Buttery construction. More particularly, it is important to note that the Buttery filtering apparatus does not include a housing which is substantially frusto-conical shaped. First, housing portion 15 does not comprise the entire housing member. As clearly set forth in the Buttery

specification at column 1, lines 32-34; column 2, lines 7-9 and 62-63; and column 3, lines 55-57; it is clear that the housing 11 of Buttery is formed from two substantially identical body portions 15 and 16. This is clearly shown in Fig. 2. The Examiner has taken the position that only housing portion 15 constitutes the housing member and that housing portion 16 represents the second end cap member defined in Applicant's claims. Applicant respectfully disagrees with the Examiner's reconfiguration of the Buttery structure. Column 1, lines 32-34 clearly state that the Buttery housing includes two identical body portions which are joined together. This represents housing portions 15 and 16 in Fig. 2. Column 2, lines 7-9 likewise specifically states that the housing comprises first and second identical body portions joined to one another circumferentially along the sidewall. This is clearly shown in Fig. 2 wherein body portions 15 and 16 are joined at faces 30 and 31. This construction is again confirmed at column 2, lines 62-63 where it is indicated that the housing includes two identical body portions and at column 3, lines 55-57 where it is indicated that the housing is formed from first and second body portions. Even independent claims 1, 15 and 18 require first and second body portions joined together to form a single housing. Clearly, if housing portion 15 represents the entire housing, the filter element 36 of Buttery does not even fit substantially within the housing portion 15.

More importantly, as clearly shown in Figs. 1 and 2 and as clearly represented at column 3, lines 38 and 39, the housing 11 is preferably fashioned in a generally cylindrical configuration, not a frusto-conical configuration as clearly claimed in Applicant's independent claims. In this regard, it is clear from Applicant's disclosure and Fig. 3 of Applicant's application that Applicant's housing member is clearly frusto-conical shaped from the dome portion all the way

to the open end portion of the housing member and that the filter element fits substantially within the housing member. This is clearly not true of the Buttery configuration wherein if housing portion 15 is the housing member, the filter member does not lie substantially within the housing portion but at least half of the filter element is exposed outside the open end portion of the housing portion 15. Applicant's housing member is frusto-conical shaped along substantially its entire length from the dome portion to its open end portion and it is adaptable for receiving a substantial portion of the filter member therewithin. Independent claims 12, 22, 29 and 30 have all been amended to include these features and to clearly distinguish Applicant's frusto-conical shaped housing member over the housing member 15/16 of Buttery. In fact, once the housing portions 15 and 16 are joined as shown in Fig. 1, the housing member 11 is not frusto-conical in shape along its entire length. Still further, independent claims 12 and 30 have likewise been amended to require a one-piece housing member. Again, this is clearly not true of the Buttery reference.

Applicant also respectfully disagrees with the Examiner's conclusion that the housing portion 15 of Buttery includes a substantially closed dome shaped portion. Applicant's definition of a substantially closed dome shaped portion is best illustrated in Figs. 2 and 3 of Applicant's drawings wherein the substantially closed end portion of Applicant's housing member is, in fact, dome shaped as indicated, not merely rounded at its outer periphery as shown in Figs. 1 and 2 of Battery. The Buttery housing portion 15 also includes a tubular inlet member 13 which extends, as shown in Figs. 1 and 2, well beyond the outer periphery of the housing end portion, which configuration does not constitute a substantially dome shaped portion as illustrated in Figs. 2 and

3 of Applicant's application. Still further, the inlet opening 21 of Buttery likewise extends well beyond the outer periphery of the housing end portion. Applicant has amended all independent claims including claims 12, 22, 29 and 30 to specifically require that the opening or openings extending through the dome shaped portion of Applicant's housing member do not extend beyond the outer periphery of the dome shaped portion but, instead, are located or contained within the outer periphery of said dome shaped portion. This is clearly not true of the Buttery construction.

It is also important to note that inlet 13 of Buttery is specifically designed for connection to hoses associated with a fluid system for providing a liquid or gas directly to the patient. In fact, the Buttery filter assembly includes connection means at both ends of the housing member 11, namely inlet 13 and outlet 14. This filter assembly is considered a medical or bacteria type filter device which is connected between the compressor unit and the patient for filtering a liquid or a gas as it comes out of the compressor and through the filtering mechanism such as sieve material and before the liquid or gas is fed directly to the patient. The Buttery filter is therefore used on the patient side of the compressor. In complete contrast, the inlet opening 6 as illustrated in Applicant's Figs. 2-6 and the plurality of openings 60 as illustrated in Applicant's Fig. 7 are merely openings in the dome shaped portion of the housing member and all such openings lie within the outer periphery of the dome shaped portion of the housing member, that is, they do not extend beyond the outer periphery of the dome shaped portion. More importantly, the dome shaped portion of the housing member of Applicant's device is not attached to anything. Instead, Applicant's filter assembly is attached to the compressor side of an oxygen

concentrator or other compressor assembly and is used to filter air as it enters the compressor before such air or other liquid or gas is fed from the compressor through the sieve material. As a result, only the second end cap member of Applicant's housing assembly is attachable to a compressor assembly. The Examiner's recitation that Buttery explicitly discloses that the housing member is only a preferred embodiment and that the inlet can be formed as any suitable connector including threaded connections, or wherein the inlet is formed as a female threaded aperture still has no bearing on Applicant's dome shaped construction. Applicant's openings 6 and/or 60 do not include male or female threads and are in no way connected to anything associated with the compressor assembly. Here again, the openings 6 and 60 are merely used to allow air to enter Applicant's filter housing assembly. This is not an obvious design change because the Buttery device is utilized on the patient's side of a compressor assembly and therefore must have connection means on both opposite ends of the housing assembly. Applicant's limitation in currently amended claims 12, 22, 29 and 30 with respect to the opening or openings associated with the dome shaped portion being located or contained within the outer periphery of the dome shaped portion clearly distinguishes over the Buttery device. For all of the above reasons, independent claims 12, 22, 29 and 30 are clearly patentably distinguishable over the Buttery reference.

Still further, independent claims 22 and 29 are specifically directed to a filter housing assembly for use on an oxygen concentrator. This further limits and restricts claims 22 and 29.

Claim 29 and 30 have likewise been further amended to specifically define the additional spaces located by and between the first end cap member, the plurality of shoulder members and

the housing member for allowing air entering the dome shaped portion of Applicant's housing to travel to the peripheral space formed around a filter member positioned therewithin. Here again, although the Buttery reference does define a plurality of ribs 32 positioned at each end 15, 16 of the housing 11, it is believed that this added structure further patentably distinguishes Applicant's dome shaped, frusto-conical shaped housing member over the structure disclosed in the Buttery reference.

Claims 33, 36 and 37 stand rejected under 35 U.S.C. 102(b) as likewise being anticipated by Buttery. Claim 33 is a method claim and has likewise been amended to include many of the same limitations discussed above with respect to independent claims 12, 22, 29 and 30. More particularly, claim 30 likewise specifically requires a one-piece substantially frusto-conical shaped housing member adaptable for receiving a substantial portion of the filter member when positioned therewithin, and the at least one opening extending through the dome shaped portion is contained within the outer periphery of the dome shaped portion. The differences discussed above with respect to claims 12, 22, 29 and 30 and the Buttery reference are incorporated herein by reference. For all of these same reasons, claim 33 is clearly distinguishable over the structure and method disclosed in the Buttery reference.

Claims 15, 17, 18, 21, 26-28 and 31 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Buttery. More specifically, with respect to claim 15, the Examiner admits that Buttery does not disclose the at least one opening being offset from the apex of the domed portion of the housing member, but further states that it would be obvious to shift the location of the opening. This is clearly not true in the case of Buttery because inlet 13 is a connecting

member for connecting the inlet portion of the Buttery filter assembly to a hose or other connection mechanism associated with the patient's mask or fluid system. Shifting the opening 21 of Buttery shifts the entire inlet structure which changes the entire structure and operation of the device.

Again, with respect to claims 17, 18 and 26-28, the Examiner indicates that Buttery does not disclose the size of the opening extending through the closed dome shaped portion of the housing member being less than or greater than the size of the opening associated with the second end cap member, however, the Examiner again takes the position that it would be obvious to one of ordinary skill in the art to adjust the size of the openings. Applicant respectfully disagrees with this conclusion. More specifically, there is no discussion in any of the cited prior art references including the Buttery, Byrns, Kippel et al., Burger et al., Virgille et al., and all of the prior art references cited in Applicant's information disclosure statement attached to the office action mailed November 3, 2003 and previously submitted with Applicant's application of any size differences between the inlet and outlet openings and/or any discussions, teachings, or suggestions with respect to noise attenuation. Although all of the prior art Figures show the inlet and outlet openings as being of the same size, the only specific reference Applicant can find in any of the cited prior art references relating to the size of the inlet and outlet openings is at column 3, lines 53-55 of the Byrns reference wherein it is specifically stated that a centrally located opening 43 (inlet opening) equivalent in size to the opening 20 (outlet opening) in the base member 14 is provided in the end well 42. There is no teaching or suggestion anywhere in any of the cited prior art regarding varying the hole size configurations

for any purpose much less to reduce noise. Applicant therefore respectfully disagrees with the Examiner's conclusion that it would flow naturally from following the suggestion of the prior art that the hole sizes can be varied for noise attenuation. It is the combination of Applicant's frusto-conical shaped housing member having a substantially closed dome shaped end portion along with hole size variations which produce noise attenuation. Nothing in the cited prior art addresses any type of housing configuration including hole sizes which addresses noise attenuation.

The same is likewise true with respect to claims 21 and 31. Here, the Examiner again specifically indicates that Buttery does not disclose the closed dome shaped end portion of the housing member having a plurality of openings extending therethrough, but again, concludes that it would be obvious to one skilled in the art to include a plurality of openings. Applicant again respectfully disagrees with this speculation and conclusion since the Buttery filtering apparatus must be attached at both opposite end portions of the housing assembly to hoses or other connection means for attaching the filter mechanism on the patient's side of the compressor directly to a mask or other mechanism for filtering liquid or gas flowing directly to the patient. Here again, both the inlet 13 and outlet 14 of the Buttery device must be attached to hoses from both the compressor assembly and the fluid system providing liquid or gas to the patient. This is clearly not true of the filtering mechanism of Applicant where only the second end cap portion of the mechanism is attached to the compressor side of the compressor assembly and nothing is attached to the closed dome shaped portion of Applicant's housing member. A plurality of holes

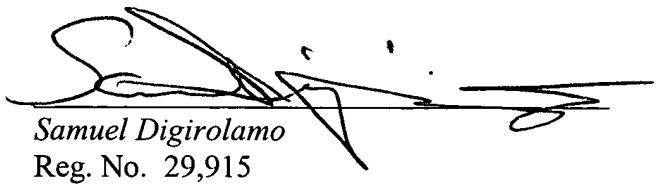
on the inlet side or on housing portion 15 of Buttery would render the Buttery mechanism inoperative.

It is now believed that all of the pending claims in the pending application, namely, claims 12-37 contain limitations and restrictions which patentably distinguish them over the cited prior art. None of the cited references, either alone or in any combination thereof, disclose or suggest all of the novel features associated with the present constructions, nor do the prior art constructions provide the specific advantages and objectives obtained by the present devices. Favorable action and allowance of the claims is therefore respectfully requested.

If any issue regarding the allowability of any of the pending claims in the present application could be readily resolved, or if other action could be taken to further advance this application such as an Examiner's amendment, or if the Examiner should have any questions regarding the present amendment, it is respectfully requested that the Examiner please telephone Applicant's undersigned attorney in this regard.

Respectfully submitted,

Date: 6 JAN 04



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